IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.K.DENESAN

WEDNESDAY, THE 21ST FEBRUARY 2007 / 2ND PHALGUNA 1928

WP(C).No. 5801 of 2007(N)

PETITIONER:

VALSA AVARACHAN, W/O.DAVIS PANACKAL,
PANACKAL HOUSE, CHERUKADAPPURAM,
NORTH KUTHIATHODU, ERNAKULAM.

BY ADV. SRI.K.Y.TOMY
SRI.K.B.DAYAL
SRI.SIBI KARUN

RESPONDENTS:
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1. THE DISTRICT OFFICER,
KERALA PUBLIC SERVICE COMMISSION,
IDUKKI.

2. THE STATE OF KERALA, REPRESENTED BY THE
CHIEF SECRETARY, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM.

R1 BY SHRI.P.C.SASIDHARAN, SC, PSC.
R2 BY GOVT. PLEADER SHRI.BIJOY CHANDRAN.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 21/02/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.P. Balachandran, J.

W.P.(C)No. 5803 of 2007 N

JUDGMENT

The petitioner is the second judgment debtor in O.S.No.1835/02 on the file of the Munsiff's Court, Irinjalakuda. The suit was decreed in August 2003 and the execution petition also was filed in 2003 itself. Even, according to the petitioner/second judgment debtor, the amount paid by him till date towards the decree debt is only Rupees five thousand, whereas, the decree amount as per Exhibit P1 execution petition is Rs.28,621/-. It is not in dispute that Rule 37 notice was received by the petitioner and that in the objection filed by him he has not raised any plea of no means, but he has offered to pay the debt in instalments. But, it appears that no such payment was made as offered. It was, therefore, that warrant was issued against the second judgment debtor.

2. Exhibit P2 shows that when warrant was attempted to be executed, the petitioner obstructed and that it was, therefore, that the execution court issued fresh arrest warrant to the petitioner with police help. I do not see anything wrong in the procedure adopted by the court below to have the decree executed, especially when the petitioner had not raised any plea of no means. It is submitted by the counsel for the petitioner before me that the petitioner is not having sufficient means to discharge the debt in lump or in substantial portions thereof. Inasmuch as Rule 37 stage is over, the petitioner will get an opportunity to advance his contentions regarding means when brought under arrest.

In the circumstances, this writ petition is devoid of merit and is, hence, dismissed.

26th February, 2007 (K.P.Balachandran, Judge)

tkv